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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,815	01/31/2001	William T. Carpenter	P01426US2	8585

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EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,815

Applicant(s)

CARPENTER, WILLIAM T.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

The amendment dated 9/30/02 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chao, B. F., Anthropogenic impact on global geodynamics due to water impoundment in major reservoirs, Geophys. Res. Lett., 22, 3529-3532, 1995.

Chao teaches the steps of measuring, determining, and characterizing. Chao fails to explicitly teach the selecting a desired character of rotation, calculating a moment of stability, determining a position and mass, and positioning the mass. It is a well known principle to correct environmental problems made by man. It would have been obvious to one of ordinary skill in the art at the time of the invention to have measured the mass of a planet, determined the center of mass, characterized the axis of rotation, selected a desired character of rotation, calculated a moment of stability required to cause the desired character of rotation, determined a position of and mass of a compensating substance sufficient to effect the moment of stability, and positioned

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the mass in the position (either by removing the existing dams, and thus redistributing the captures water; or by moving other masses to compensate), as called for in claim 11, in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 12, see page 3531, col. 2, it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the position of the compensating substance in an underground cavity in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 13, Chao teaches the aboveground cavity, thus it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the position of the compensating substance in an underground cavity in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 14, it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the compensating substance a solid, because solid substances are less likely to move over time, in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 15-17, Chao teaches the liquid, thus it would have been further obvious to one of ordinary skill in the art at the time of the invention to have the compensating substance a liquid in order to correct the alterations to the axis of rotation characterized by Chao.

With regards to claim 18-20, Chao teaches the liquid is water, thus it would have been further obvious to one of ordinary skill in the art at the time of the invention to have

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the compensating substance being water in order to correct the alterations to the axis of rotation characterized by Chao.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Strain, M. The Earth's Shifting Axis, 1997*; is cited for similar subject matter.

Response to Arguments

2. Applicant's arguments concerning the Chao reference filed 9/30/02 have been fully considered but they are not persuasive. Applicant has argued that the Examiner has failed to provide a factual basis for the statement that the limitations of "selecting", "calculating", "determining", and "positioning" would have been obvious to one of ordinary skill in the art.

Although it is clear that Chao recognizes the problem addressed by the claimed invention; it is agreed that Chao fails to explicitly disclose the claimed invention. One of ordinary skill in the art would find the claimed invention obvious over Chao for the following reasons.

It is well known to correct environmental problems caused by man. This is exemplified by the well known problems of ozone depletion and species endangerment, as supported by this text from Encyclopædia Britannica:

"In the mid-1980s scientists discovered that a "hole" developed periodically in the ozonosphere above Antarctica; it was found that the ozone layer there was thinned by as much as 40–50 percent from its normal concentrations. This severe regional ozone depletion was explained as a natural phenomenon, but one that was probably exacerbated by the effects of chlorofluorocarbons and halons. Concern over increasing global ozone depletion led to international restrictions on

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the use of chlorofluorocarbons and halons and to scheduled reductions in their manufacture."

from "ozonosphere" Encyclopædia Britannica

<<http://www.search.eb.com/eb/article?eu=59331>>

[Accessed December 11, 2002]

"The primary factor in the depletion of the world's fauna has been modern human society, operating either directly through excessive commercial hunting" (page 2, line 1); and

"The oldest forms of prohibitions and controls are those that regulate hunting, fishing, and trapping." (page 2, line 53)

from "wildlife conservation" Encyclopædia Britannica

<<http://www.search.eb.com/eb/article?eu=79039>>

[Accessed December 11, 2002].

The problem disclosed by Chao is plainly an environmental problem, and one of ordinary skill in the art would find that Chao implicitly suggests that the problem should be corrected. The claimed steps are not explicitly disclosed by Chao, however, the Chao reference, taken as a whole, would suggest the claimed steps to one of ordinary skill in the art.

The step of "selecting a desired character of rotation" would be obvious, in order to return the Earth to its normal (unaffected by man) rotational pattern: one of ordinary skill in the art would find it obvious to "select" the natural character of rotation as desirable, the suggestion to do so would have been found in the disclosure of Chao, taken as a whole.

The step of calculating a moment of stability would be obvious, in order to return the Earth to its normal (unaffected by man) rotational pattern: one of ordinary skill in the art would find it obvious to use the calculations given by Chao to calculate a moment of stability which would correct the problems described by Chao., and thus return the Earth

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to its natural state, the suggestion to do so would have been found in the disclosure of Chao, taken as a whole.

The step of determining a position and mass of a compensating substance would be obvious, in order to return the Earth to its normal (unaffected by man) rotational pattern: one of ordinary skill in the art would find it obvious because the problem disclosed by Chao is caused by the location of specific masses in specific locations across the Earth.

The step of positioning a mass would be obvious, in order to return the Earth to its normal (unaffected by man) rotational pattern: one of ordinary skill in the art would find it obvious because the problem disclosed by Chao is caused by the location of specific masses in specific locations across the Earth—the suggestion to position a mass to counter the effect of dams is implicitly suggested in the disclosure of Chao.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 and (703)305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK
December 11, 2002



HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600